IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5541 OF 2004

Ramakant Karnik Nagar Co-operative
Housing society 'C' Ltd., Solapur ..Petitioner

Versus

The District Collector, Solapur
and Anr. ..Respondents

Mr.S.G.Kudle for the petitioner.

Mr.C.R.Sonawane, AGP for Respondents.

Coram : S.B.Mhase &
R.S.Mohite,JJ

Date : 1.11.2004.

PC

1. The petitioner is a Co-operative society which is classified as a Housing Society under Rule-10 of the Co-operative Societies Rules. This society is of the Government servants from the various departments. As it is a society of the Government servants, the Government is pleased to make an allotment of the land to the said society as per the order passed by the Collector on 10.4.1985 bearing No.RB-I/Desk-II/CTS.I/IR. In the said allotment order there is a clause no.7 which is as follows :-

> "The society shall not enroll any new members or substitute any member approved

by the Collector as indicated in schedule No.1 accompanying this order without his prior permission and the Collector shall have a right to approve such new members, recommended by the society, who would fulfil prescribed conditions thereto."

2. Therefore, after the admission of the members, unless the Collector approves as provided in Clause-7 above referred, the said member will not get any plot or flat in the said society. However, the learned Advocate for the petitioners submitted that the petitioner-society have submitted a proposal of the members admitted for approval under clause-7 to the Collector. However, the Collector has not taken any decision in respect of those applications. He has pointed out Resolution no.3 which has been passed in the meeting dated 11.8.2002 wherein 24 members have been enrolled by the said Society and the proposal is submitted to the Collector. However, nothing has been done by the Collector. As a result of which, the plots cannot be allotted to the new members and they cannot exercise rights of the members. Further work of the society is therefore, withheld.

3. In view of this situation, what we find appropriate is that the direction to the Collector

to dispose of the proposal made by the petitioner-society for approval of new members in view of the above referred Clause-7, will suffice the purpose of this Writ petition. Mr.Sonawane, learned AGP for Respondents has no objection for issuing such a direction to the Collector to dispose of the proposal made by the petitioner-society for approval of members if pending with the Collector. The learned Advocate for the petitioner-society submitted that some time schedule programme should be fixed for the Collector to dispose of the applications. Hence, following order :-

O R D E R

. Petition is partly allowed. The Collector, Solapur is hereby directed to dispose of the pending proposal of the petitioner-society for approval of the members of the said society as per Clause-7 of the Order dated 10.4.1985, if already not disposed of, within a period of eight weeks from today. If this proposal has already disposed of by the Collector and if the decision is not communicated to the petitioner-society, the Collector is directed to immediately intimate the same to petitioner-society if adverse to the petitioner-society or otherwise. We observe that the Collector will decide the proposal on its own merits after giving an appropriate hearing opportunity to the

petitioner-society and/or the proposed members.

. Petition is disposed of accordingly.

. Parties to act on an ordinary copy of this order duly authenticated by the P.S./Sheristedar of this court as a true copy.

(R.S.Mohite,J) **(S.B.Mhase,J)**